

§ 136-133.1. Outdoor advertising vegetation cutting or removal.

(a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) [G.S. 136-129(4)] or G.S. 136-129(a)(5) [G.S. 136-129(5)] who obtains a selective vegetation removal permit, and the owner's designees, may cut, thin, prune, or remove vegetation in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation for each sign face shall be determined as follows:

- (1) The point located on the edge of the right-of-way that is the closest point to the centerline of the sign face shall be point A.
- (2) The point located 200 feet down the right-of-way line in the direction of the sign viewing zone shall be point B.
- (3) The point on the edge of the pavement of the travel way, including acceleration and deceleration ramps, that is the closest to the centerline of the sign shall be point C.
- (4) The point 50 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point D.
- (5) The point 380 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E; provided, however, the following shall apply within the corporal limits and territorial jurisdiction of any city, as defined in Chapter 160A of the General Statutes:
 - a. On interstates or other routes with fully controlled access, the point 340 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.
 - b. On highways other than interstates and other routes with fully controlled access, the point 250 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.
- (6) Lines drawn from point A to point D and from point B to point E shall define the limits of the vegetation cut or removal area.

(a1) Notwithstanding any law to the contrary, in order to promote the outdoor advertiser's right to be clearly viewed as set forth in G.S. 136-127, the Department of Transportation, at the request of a selective vegetation removal permittee, may approve plans for the cutting, thinning, pruning, or removal of vegetation outside of the cut or removal zone defined in subsection (a) of this section along acceleration or deceleration ramps so long as the view to the outdoor advertising sign will be improved and the total aggregate area of cutting or removal does not exceed the maximum allowed in subsection (a) of this section.

(b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree that was in existence at the time that an outdoor advertising structure was erected shall only be eligible for removal in accordance with subsections (c), (d), and (e) of this section. Native dogwoods and native redbuds shall be preserved. For the purposes of this section, an existing tree is defined as a tree that had a diameter of four inches or greater as measured six inches from the ground at the time that the outdoor advertising structure was erected. An outdoor advertising sign is considered erected when the sign is completely constructed with a sign face.

(c) The applicant for a selective vegetation removal permit shall submit to the Department a site plan locating thereon any trees existing at the time that the outdoor advertising sign was erected, as defined in subsection (b) of this section, that are requested to be cut, thinned, pruned, or removed, and noting their species and total caliper inches. The applicant shall also tag, with highly visible material or flagging, any tree that is, at the time of the application for a selective vegetation removal permit, greater than four inches in diameter

as measured six inches from the ground and requested to be cut, thinned, pruned, or removed. The selective vegetation removal request may be investigated on-site by Department personnel and a representative of the applicant. In the event that the Department disputes the accuracy of the existing tree information on the site plan noted above, the Department shall notify the applicant in writing and may request the following:

- (1) A tree survey.
- (2) That the applicant amends the site plan.
- (3) That the applicant deletes the trees in dispute from the desired cutting.

If a notice of disputed tree information is received from the Department, the applicant can either employ the services of a North Carolina licensed landscape architect or certified arborist to perform a tree survey, amend the site plan, or notify the Department in writing that any or all of the disputed trees are deleted from the application. If the applicant selects a tree survey, the landscape architect or certified arborist will submit a report under seal that contains a tree inventory of existing trees in the removal zone for the outdoor advertising structure and include the age of any tree that existed at the time that the sign was erected. The report will categorize tree species and include a site map of sufficient detail and dimensions. A tree survey will not be required for subsequent applications to cut, thin, prune, or remove trees at the same site for trees that have been previously permitted. Any dispute relating to whether or not the tree existed at the time the outdoor advertising sign was erected shall be conclusively resolved by information in the report from the licensed landscape architect or certified arborist.

(d) Except as provided in subsection (e) of this section, trees existing at the time the outdoor advertising sign was erected may only be removed within the zone created in subsection (a) of this section if the applicant satisfies one of the following two options selected by the applicant: (i) reimbursement to the Department pursuant to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the sign may be removed if the applicant agrees to remove two nonconforming outdoor advertising signs for each sign at which removal of existing trees is requested. The surrendered nonconforming signs must be fully disassembled before any removal of existing trees is permitted and shall not be eligible for future outdoor advertising permits in perpetuity.

(e) Removal of trees and vegetation of any age, including complete removal, except for native dogwoods and native redbuds, shall be permitted within the cut or removal zone established in subsection (a) of this section if the applicant for the selective vegetation removal permit, in lieu of compliance with subsection (d) of this section, agrees to submit to the Department a plan for beautification and replanting related to the site for which the vegetation permit request is made. The Department shall develop rules for compensatory replanting, including the criteria for determining which sites qualify for replanting, and shall, in consultation with the applicant and local government representatives, determine which sites must be replanted, and the types of plants and trees to be replanted. The replanting and maintenance shall be conducted by the applicant or his or her agents in accordance with the rules adopted by the Department. If the conditions detailed in this subsection are agreed to by the applicant and approved by the Department, there shall be no reimbursement to the Department under G.S. 136-93.2 for removal of trees that existed at the time the outdoor sign was erected, nor shall the applicant be required to remove two nonconforming outdoor advertising signs for removal of existing trees at the site.

(f) Tree branches within a highway right-of-way that encroach into the zone created by points A, B, D, and E may be cut or pruned. Except as provided in subsection (g) of this section, no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut, trimmed, pruned, or removed vegetation that is in front of, or adjacent to, outdoor advertising and within the limits of the highway right-of-way for the purpose of enhancing the visibility of

outdoor advertising unless permitted to do so by the Department in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4.

(g) Notwithstanding any law to the contrary, the owner of an outdoor advertising sign defined by subsection (a) of this section or the owner's designees may, working only from the private property side of the fence, without charge and without obtaining a selective vegetation removal permit, cut, trim, prune, or remove any tree or other vegetation except for native dogwoods or native redbuds that is (i) less than four inches in diameter at the height of the controlled access fence, (ii) located within 200 feet on either side of the existing sign location as defined by point A and point B in G.S. 136-133.1(a)(1) and (2), and (iii) a distance of three feet from a controlled access fence within the limits of the highway right-of-way. The activities permitted by this subsection must be performed from the private property owner side of the controlled access fence and with the consent of the owner of the land that is used to access said fence.

(h) No additional funds from the Highway Trust Fund shall be used for the purpose of vegetation replacement under the provisions of this section.

(i) The Department may revoke an outdoor advertising permit for the unlawful destruction or illegal cutting of vegetation within the right-of-way of any State-owned or State-maintained highway only if both of the following conditions are met:

- (1) The unlawful destruction or illegal cutting occurred within 500 feet of either side of the corresponding sign location measured along the edge of pavement of the main travel way of the nearest controlled route and was willfully caused by one or more of the following:
 - a. The sign owner.
 - b. The permit holder.
 - c. The lessee or advertiser employing the sign.
 - d. Any employees, agents, or assigns of persons listed in sub-subdivisions a. through c. of this subdivision, including, but not limited to, independent contractors hired by any of the above persons, or the owner of the property upon which the sign is located, if expressly authorized by the above persons to use or maintain the sign.
- (2) There is substantial, material evidence that the unlawful destruction or illegal cutting of vegetation would create, increase, or improve a view to the outdoor advertising sign for passing motorists from the main travel way of the nearest controlled route. (2011-397, s. 4; 2013-413, s. 8(a).)